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ABSTRACT

The document analyzes monitoring procedures in use by other federal programs in an attempt to help the Bureau of Education for the Handicapped (BEH) develop its own procedures for waiver reviews. Waivers are explained as a request for exemption from P.L. 94-142's (the Education for All Handicapped Children Act) fiscal non-supplant requirements. The analysis is based on monitoring methods used in 11 other federal agencies for such programs as Occupational Health Programming (Department of Labor), Advertising Practices (Federal Trade Commission), Office for Civil Rights (Department of Health, Education and Welfare), Regulations Analysis (Environmental Protection Agency), and the Food Stamp Program (Department of Agriculture). The conclusion relates the BEH waiver review monitoring process to three dimensions: the subjects of monitoring, the orientation of the monitoring function, and the locus of responsibility for monitoring. Three monitoring practices considered most applicable to BEH are discussed: consumer participation, thoroughness and intensity of monitoring, and personnel utilization. (CL)

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Project to Develop BEH Waiver Requirements, Procedures, and Criteria

REPORT OF FEDERAL MONITORING PRACTICES

EC150687

PROGRAM MANAGEMENT · RESEARCH · EVALUATIONS · SYSTEMS ANALYSIS

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PROJECT TO DEVELOP BEH WAIVER REQUIREMENTS, PROCEDURES AND CRITERIA

REPORT OF FEDERAL MONITORING PRACTICES

September 29, 1978

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PREFACE

The Education for the Handicapped Act as amended by Public Law 94-142 provides the States the opportunity to request a waiver of, or exemption from, the statute's fiscal non-supplant requirements. When a State education agency provides clear and convincing evidence that all handicapped children in the State have available a free appropriate public education (FAPE), the U.S. Commissioner of Education may waive in part the non-supplant provision. To evaluate an SEA request for a waiver, the Bureau of Education for the Handicapped (BEH) must conduct a review of the State's special education programming. To date one waiver review has been conducted and the procedures for future reviews are still being developed by the Bureau. The descriptive analysis presented in this report was conducted in order to provide BEH with an overview of the monitoring procedures currently being used by other Federal programs. This analysis was designed to assist BEH in developing its waiver review monitoring process, and, as such, is an attempt to bring conceptual order and direction to the consideration of Federal monitoring practices.

This analysis is one of several formative evaluation efforts undertaken to provide an objective basis for recommending procedures and requirements to BEH for use in conducting a waiver review. Therefore, the reader is cautioned that this document is not designed to stand alone but rather to provide a critical segment of the information needed to develop a waiver review process. Previous evaluative reports (Lewis, 1978a, 1978b) have described and analyzed the procedures and requirements used by BEH in conducting the Massachusetts waiver review. The analyses of other Federal monitoring programs provided in

this report is intended to complement the previous reports and to provide BEH with a broad experiential base for use in designing the waiver review process.

The authors wish to extend appreciation to the staff of the various programs reviewed in this report for their cooperation and for the time they spent in providing information. In addition, we would like to acknowledge the efforts of Barbara Hobbs and Doris Cargile of the Division of Assistance to States, BEH for their generous help in editing and designing the graphics for this report.

INTRODUCTION

The analysis reported in this paper was undertaken to determine the relevance of other Federal agency monitoring procedures to the development of a BEH waiver review process. It was felt that a recommendation to BEH concerning its waiver review process should not only be based on a conceptual formulation but also should consider the actual monitoring experiences of other Federal agencies. Thus, the procedural practices used by other agencies to conduct their oversight and accountability activities are examined in this paper for their implications for the development of a BEH waiver review process.

This analysis is based on information obtained from twelve Federal programs in eleven agencies. The conceptual model depicted in Figure 1 was used to select the programs to be reviewed and to draw implications from their monitoring practices for consideration in developing the BEH waiver process.

The model has three dimensions: (1) subject of monitoring, (2) locus of responsibility for monitoring, and (3) orientation of the monitoring function. The explanatory power of the model is posited to follow a predictive path, with the subject of monitoring being related to the locus of responsibility, and the locus of responsibility being related to the orientation of the monitoring function.* (See figure 2a). Each dimension of the model is discussed below to provide the reader with an understanding of the model and its heuristic utility.

* The one exception to the sequential predictive path is discussed below in the Locus of Responsibility dimension of the model and is illustrated in Figure 2b.

Table 1. Evaluation Model for Describing Federal Monitoring Practices

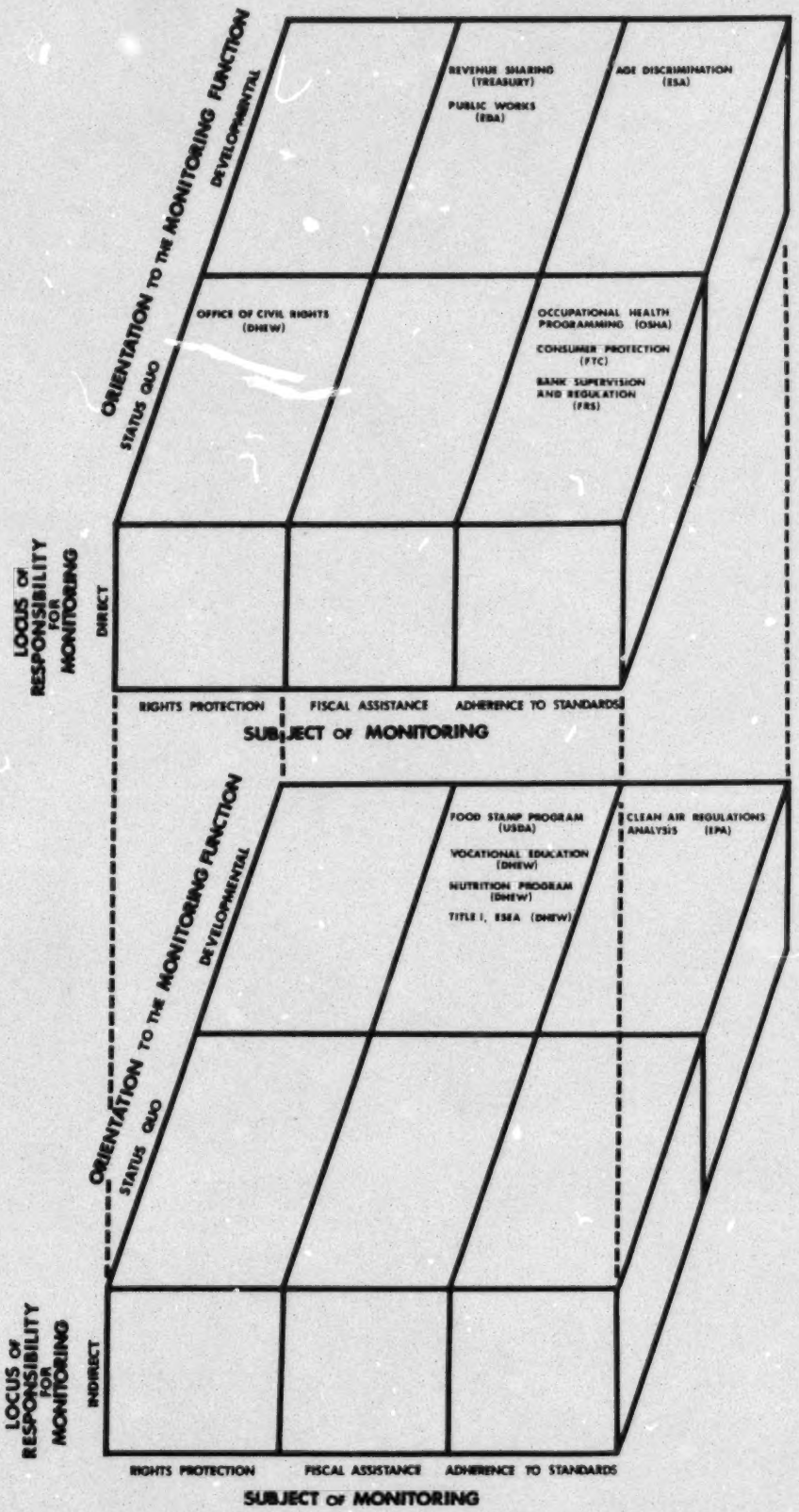
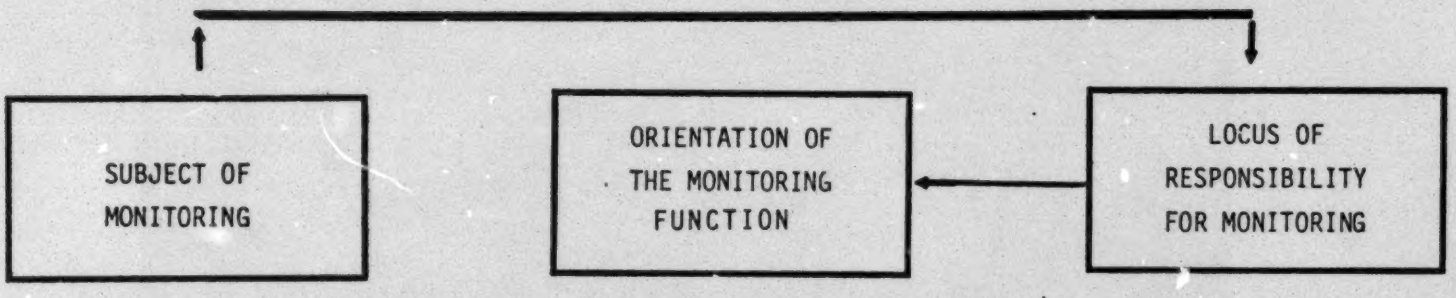


TABLE 2

Predictive Paths of Conceptual Model for Describing Federal Monitoring Practices

2a. Sequential Predictive Path of Conceptual Model for Describing Federal Monitoring Practices Related to Rights and Fiscal Assistance



2b. Alternative Predictive Path of Conceptual Model for Describing Federal Monitoring Practices Related to Adherence to Standards

Subject of Monitoring

The subject of monitoring is typically based upon Federal regulations which provide a basis for determining the extent of implementation and/or compliance. The subjects of monitoring are considered to cluster into three categories: protection of rights, fiscal assistance, and adherence to standards. Rights refers to the protections or guarantees afforded individuals by Federal statute. Fiscal assistance refers to the provision of Federal monies to develop, demonstrate, assist and/or promote administration, implementation, and monitoring of programs. Adherence to standards is defined in terms of the extent to which administration and implementation of programs are consistent with Federal requirements. Federal programs often have more than one subject or focus. Though certain agencies, such as the Interstate Commerce Commission, may only monitor the implementation of regulations, many also monitor the distribution and expenditure of Federal monies. Others not only monitor the implementation of regulations and the distribution and expenditure of monies, but also protect and guarantee the civil rights of our Nation's citizens. It should be stressed that in this report the discussion of this dimension of the model considers only the primary subject of monitoring for each program and does not imply that the programs may not have multiple or changing focii.

Locus of Responsibility

The subject of monitoring appears to affect the locus of responsibility, that is, whether the program selects to monitor its constituents directly or indirectly. In the latter circumstance, the Federal program focuses on an intermediary regional, a State or a local institution which has been designated

either by legislation or regulation, as the unit responsible for administering and implementing the Federal law in question. The relationship between each of the three subject categories of monitoring and an agency's decision to use either a direct or indirect locus of responsibility is considered below.

Programs primarily responsible for guaranteeing and protecting individual rights usually monitor their constituents directly. The decision to monitor constituents directly seems to be related to the need to use sanctions such as litigation to ensure that the constituents carry out their responsibilities. In addition, these programs usually do not have a governmental counterpart at the State and local level.

Programs primarily concerned with monitoring the distribution and expenditure of funds invariably monitor their constituents indirectly. This choice seems to be consistent with the Federal posture of flowing resources through intermediary institutions rather than directly providing fiscal assistance to individuals. The use of an intermediary institution is often based upon constitutional and practical premises.

Programs primarily concerned with the administration and implementation of standards select either a direct or an indirect approach to monitoring, depending on their orientation. This represents the one exception to the sequential predictive path of the model. In the instance where the subject of monitoring concerns adherence to standards, the path proceeds from subject of monitoring to orientation of the monitoring function and then to the locus of responsibility for monitoring, in contrast to the sequential predictions under the other conditions. Those programs primarily concerned with standards

that are designed to protect and maintain a status quo are characterized by their use of a direct approach in monitoring. In contrast, programs concerned with standards designed to promote and implement developmental changes within institutions for the benefit of society are characterized by their us of an indirect approach. Status quo and developmental orientation are defined in the following paragraph.

Orientation of the Monitoring Function

It is posited that programs design monitoring processes that are consistent with either a developmental or status quo orientation. Programs adopting a developmental orientation feel they need to be flexible in permitting local variations in order to achieve implementation of their standards. Implementation is perceived to require major institutional changes which can be achieved only through some sequence of approximations to an ideal. In contrast, programs adopting a status quo orientation to the monitoring function usually expect immediate and continued adherence to a set of Federal regulations. This orientation appears to reflect the primacy government has placed on guaranteeing and protecting individual rights and the security of certain critical societal institutions. In addition, this strict enforcement of Federal regulations is considered economically viable since many of the regulations require modifications in administrative practice and attitudes which are more easily implemented than are major institutional changes.

The model discussed above was used as a general framework for selecting programs to be reviewed. The descriptions found in the 1978 Catalog of Federal Domestic Assistance (CFDA), published by the U.S. Government Printing Office,

were examined to find those programs which appeared to represent the dimensions relevant to the conceptual model. Other relevant criteria used in program selection included similarity in the subject of monitoring, such as other education programs, and variations in personnel and procedural practices within any given cell of the conceptual model. Once selected, the programs were contacted to confirm the reliability of the CFDA description. The programs selected to be in the review are:

Title, I, ESEA (U.S. Office of Education/DHEW)

Office for Civil Rights (DHEW)

Consumer Protection Agency (Federal Trade Commission)

Occupational Health Programming (Department of Labor)

Clean Air Regulations Analysis (Environmental Protection Agency)

Vocational Education Basic Grants Program (U.S. Office of Education/DHEW)

Food Stamp Program (Department of Agriculture)

Revenue Sharing (Department of the Treasury)

Bank Supervision and Regulation (Federal Reserve System)

Public Works - Policy and Program Planning (Economic Development Administration/Department of Commerce)

Nutrition Program (Administration on Aging)

Age Discrimination (Employment Standards Administration/Department of Labor)

In analyzing the monitoring practices of each program, we considered information related to the following constructs: the purpose of the program and of the monitoring activity; the target or unit of the monitoring function (State agency, local program, individual); the scope, depth and standardization of the monitoring requirements and procedures; the amount of labor and time required by the monitoring agency and the unit being monitored in the review activity; the

result of the monitoring process (technical assistance, penalty, litigation); attitude of the unit monitored to the monitoring procedures used; and alternatives to the current monitoring process which have been employed in the past or have been considered for use. This information was obtained by conducting structured telephone interviews with agency staff responsible for or familiar with the program's monitoring activities following the interview schedule provided in Appendix A. The program monitoring profiles resulting from these interviews were reviewed by a panel for their comprehensiveness and, in the case where the profiles were found to be deficient, follow-up telephone interviews were conducted to obtain needed clarification or additional information.

The report is organized into two major sections. The first, Descriptions of Selected Federal Program Monitoring Practices, discusses the monitoring procedures used by each of the twelve programs and presents comments related to significant features of the monitoring practices of each. The second major section, the Conclusion, presents an overview of BEH's monitoring activities related to the waiver evaluation, relates BEH waiver review monitoring activities to the three dimensions of the conceptual model, and discusses implcations drawn from the experiences of other relevant Federal programs for consideration by BEH in developing its waiver review process.

DESCRIPTION OF SELECTED FEDERAL PROGRAM MONITORING PRACTICE

This section provides an overview of the monitoring procedures used by twelve Federal programs. For each program we have provided a general statement which discusses the nature of the program and the purpose of its monitoring function, a description of the program's monitoring procedures, and comments on what we consider to be some significant features of the program's monitoring process. In these comments we discuss those features that we feel are relevant to the development of a waiver review monitoring process.

Title I - Educationally Deprived Children, ESEA
Division of Education for the Disadvantaged
Bureau of Elementary and Secondary Education
U.S. Office of Education

Program and Purpose of Monitoring

The Elementary and Secondary Education Act of 1965 authorizes the U.S. Office of Education to administer funds designed to expand and improve educational programs to meet the needs of educationally disadvantaged children from low-income areas who are enrolled in public or private schools. It is estimated that five million children are currently receiving services funded by Title I. Local programs determine their Title I needs and apply to the State education agency (SEA) for funding. The SEA, in turn, submits a State plan to USOE as its request for funds. USOE administers approximately $2 billion annually through formula grants to State education agencies and provides a distribution plan for the allocation of funds to local programs. USOE is responsible for monitoring the administration and use of Title I funds.

Monitoring Procedures

USOE monitoring of Title I is consistent with the program's Federal/State/local administrative process. State education agencies bear the primary responsibility for monitoring the use of Federal funds at the local level. In contrast, the focus of USOE monitoring activities is on examining SEA administrative and monitoring procedures and on finding evidence that the State plan has been implemented. On an annual basis, USOE staff conduct a one-week site visit to each SEA during which administrative records and SEA monitoring procedures are reviewed. In addition, USOE staff visit two to four local programs

to verify the effectiveness of SEA administrative and monitoring practices. According to Title I staff, they would like to conduct more local site vists but the costs are prohibitive. USOE's monitoring procedures are standardized and reflect Title I regulatory requirements.

Areas of non-compliance with Federal regulations or discrepancies between the State plan and Title I implementation are discussed in an exit interview with the State's Title I Coordinator and Chief State School Officer. As a follow-up, USOE staff submit a report to the SEA which specifies the areas of non-compliance in need of remediation and the technical assistance available from the Office of Education. In turn, the SEA proposes a plan and time-table for corrective action to USOE. This plan then becomes the subject of USOE's monitoring visit the following year. Although USOE can hold back Title I funds in the case of persistent non-compliance, the agency prefers to rely upon the technical assistance process to bring about corrective action.

Comments

Consistent with the legacy of Federal/State/local relationships which characterize the development and support of broad Federal education initiatives, the Title I program for disadvantaged children requires the use of an intermediary administrative and monitoring agency. USOE's monitoring responsibilities for Title I are, therefore, concerned primarily with assessing the effectiveness of State agency administrative and monitoring practices and with ensuring that the State plan has been implemented at the local level. Consequently, USOE employs standardized criteria and procedures in monitoring the Title I program. Because of a lack of funding, in-depth reviews of Title I

programs are limited to a few local site visits, which are conducted to verify the effectiveness of SEA policies and procedures and to examine local implementation practices. The outcome of USOE monitoring activities is technical assistance aimed primarily at improved State agency administrative effectiveness.

Office for Civil Rights
Office of the Secretary
Department of Health, Education and Welfare

Program and Purpose of Monitoring

Numerous Federal statutes including the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title IX of PL 92-318 prohibit the use of Federal funds for programs which discriminate on the basis of race, color, national origin, handicap, sex, age, or religion. The Office for Civil Rights, DHEW, is responsible for assuring that beneficiaries of DHEW-assisted programs receive their benefits without discrimination. Such benefits are provided in a wide variety and number of settings, such as in State agencies, local school districts, hospitals, nursing homes, libraries, colleges and universities, social service agencies, and day care centers. OCR's monitoring activities related to the protection of civil rights focus primarily on the investigation of complaints filed by individuals. In addition, OCR is required to conduct compliance reviews of all programs which receive $1 million or more in DHEW funds annually to assure that civil rights regulations are adhered to.

Monitoring Procedures

The Office for Civil Rights currently employs 1200 staff in ten regional offices to oversee programs in which $189 billion in DHEW funds are spent annually. In response to the drastic increase in the number of complaints filed with OCR in recent years and as a result of the settlement of cases against DHEW for its large backlog of complaints, OCR is planning to increase its investigative staff by 900 and is currently redesigning its complaint response process.

In recent years, OCR regional offices have exercised discretion in selecting complaints to investigate due to the significant number filed (an estimated 3300 new complaints were expected in FY 1978) and the limited number of staff investigators available. In addition to considering the availability of its staff and fiscal resources, OCR considers the nature and size of the institution to be investigated, and the number of persons who would potentially be affected by complaint resolution in selecting cases to investigate. Complaints accepted for investigation have most often resulted in OCR conducting a general review of the institution or agency cited in the complaint. OCR regional office staff generally follow prescribed procedures in investigating and seeking resolution to complaints. First, OCR requests the agency to provide data concerning the suspected violation (employment, admissions, services). Next, OCR staff conduct an on-site investigation which includes the verification of data previously submitted to OCR and interviews with the complainant, program administrators, and other relevant individuals. When OCR determines that a violation has occurred, it notifies the agency and then negotiates a corrective plan of action. Failure of the agency to comply with the corrective plan may result in OCR initiatives to enforce compliance through withdrawal of all of the agency's DHEW funds. Although investigative procedures are standardized, corrective plans and timetables for compliance relate specifically to the violating agency.

Comments

The nature and breadth of the protections afforded citizens by Federal civil rights laws and regulations are considered to require direct and responsive Federal compliance monitoring. Because the number of DHEW funded programs

and eligible beneficiaries is so high, OCR focuses most of its monitoring efforts on a complaint response system rather than on systematic program reviews. When OCR conducts investigations in response to complaints, it follows standardized procedures and criteria in reviewing for possible civil rights violations in all of a given institution's practices. These procedures include conducting interviews with representatives of all parties who could be affected by potential agency violations and examining records and other documentation of agency practice. Current activities to upgrade the level of staffing and improve the complaint resolution process reflect the critical nature of civil rights protections and the emphasis the Federal government places on enforcement. The result of monitoring is consistent with this emphasis in that amelioration of violations is required and enforced by the threat of withdrawal of all of the agency's DHEW funds.

Advertising Practices
Consumer Protection Agency
Federal Trade Commission

Program and Purpose of Monitoring

The Federal Trade Commission Act as amended authorizes the Federal Trade Commission to conduct activities designed to prevent practices which are unfair to consumers. Within this mandate, FTC's Consumer Protection Agency is responsible for monitoring the advertising practices of private corporations to prevent the use of false and deceptive public communications.

Monitoring Procedures

The Consumer Protection Agency monitors both the print and media advertisements published by private businesses. Agency staff, comprised of technical and legal personnel, review approximately 65 magazines and newspapers weekly and screen television and radio broadcasts for possible violations of the Federal Trade Commission Act. Where violations are identified, CPA staff employ several subjective criteria to determine if the agency will pursue remediation of the violation. These criteria include: the nature of the advertiser's claim; the amount of money expended in dispersing the claim; the number of consumers affected; the potential deterrent effect that remediation may have on other industry advertising; the vulnerability of the persons targeted by the advertisement (such as children or the elderly); the financial significance of the advertisement; the potential for establishing an FTC precedent; and the amount of money available to FTC for enforcement and litigation.

When an advertising violation is identified, CPA first seeks voluntary remedial action on the part of the advertiser through the establishment of a

consent order. CPA specifies the remediation necessary and a timetable for the revision of the advertising practice. When voluntary action is not forthcoming and the CPA decides to pursue the case further, the agency's Division of Compliance assumes responsibility for initiating the litigative process. One out of four cases scheduled for litigation is settled out of court. Violations settled through the litigative process usually result in the levying of substantial fines against the advertiser. CPA publishes the results of its successful litigation in an advertising trade magazine for the potential deterrent effect that may result.

Comments

The nature of protection afforded the general public by the Federal Trade Commission Act requires the FTC to engage in aggressive, direct and on-going monitoring of private industry advertising practices. Therefore, the agency's monitoring criteria are standardized and the scope of their procedures limited to the specific activity of advertising. Given the vast number of advertising claims made, the exercise of FTC authority is selective in order to maximize the effect of the agency's limited fiscal and personnel resources. This selectivity is designed not only to protect target populations but also to deter violation of Federal standards by other businesses. The result of monitoring is consistent with the concept of consumer protection in that it requires strict adherence to standards supported by substantial penalties and the threat of court action.

Occupational Health Programming
Occupational Safety and Health Administration
Department of Labor

Program and Purpose of Monitoring

The Occupational Safety and Health Act (PL 91-596) authorizes the establishment of standards to assure safe and healthful working conditions for the protection of employees. The Occupational Safety and Health Administration (OSHA) is responsible for monitoring the compliance of private industry with Federal standards and for monitoring the establishment of State standards which are consistent with Federal requirements.

Monitoring Procedures

The OSHA administers two types of monitoring processes. States elect to participate in either the State Program or the Non-Agreement Program. To date, twenty-five States have elected to participate in the State Program and the remaining twenty-five in the Non-Agreement Program.

State Program. States which participate in this program have established occupational safety and health regulations consistent with Federal standards. Designated State agencies monitor industries within their jurisdictions and receive Federal assistance for up to 50% of the inspection costs. In order to request funding, States submit an annual plan which describes their safety and health standards and monitoring procedures. In States participating in this program, OSHA examiners visit the designated State agency to assess State monitoring procedures and practices. Local site visits are made by OSHA only in response to complaints. While the State may employ up to 150 examiners to monitor individual businesses, OSHA's annual site visit to the State agency

requires only two or three examiners.

Non-Agreement Program. States which do not have occupational safety and health standards conforming to Federal regulations or which do not submit an annual plan are subject to OSHA monitoring. According to OSHA staff, many non-agreement States find the cost of monitoring activities prohibitive and, therefore, prefer that OSHA assume responsibility.

To carry out its monitoring functions, OSHA maintains staff in 10 regional and area offices. Approximately 1500 examiners are employed by OSHA nation-wide. Area offices are responsible for directly monitoring individual businesses in the twenty-five non-agreement States. The regional OSHA offices review area office procedures and practices and provide technical assistance as required.

Area office inspectors focus their monitoring efforts primarily on those industries considered to be most likely in violation of Federal standards. Such targets normally include large industries or businesses where violations have been identified in the past. In addition, area office staff respond to complaints filed with OSHA. Although OSHA inspectors are authorized to monitor for a broad range of violations, as a result of limited funding they are currently able to respond to only two priority areas. These two priorities include conditions which are contributing to fatalities and complaints of imminent danger.

Monitoring site visits require from one to seven days depending upon the size and nature of the business. OSHA staff carefully examine any suspected violations and conduct verification tests. In addition, inspectors meet separately with representatives of labor and management to discuss safety and health conditions. Violations identified are reported back to management with the

action required clearly specified. In addition, financial penalties are levied. In response, management proposes a plan for remediation which includes a timetable for compliance. If a company contests inspection findings, hearings before an OSHA review commission are held or court action taken. The levying of fines is usually sufficient to effect industry compliance.

According to OSHA staff interviewed, despite the large number of examiners currently engaged in conducting industry site visits, more are needed for effective and comprehensive supervision. Although OSHA would prefer that States participate in the State Program, the high costs associated with monitoring and frequent management/labor conflicts over outside supervision of working conditions appear to deter States from assuming authority for monitoring.

Comments

The protection of the safety and health of the Nation's work force requires effective and responsive oversight. To address this need, OSHA has responded by establishing and largely financing two mechanisms for the monitoring of private industry which are designed to provide the guarantees of protection required by Federal law. The monitoring of all aspects of industrial employment that can impact on the health and safety of workers requires the commitment of large numbers of staff; a considerable degree of standardization in the procedures used; and lengthy comprehensive site visits. In addition, the labor/management relationship requires that the agency be able to respond to complaints and that it employ monitoring procedures that provide opportunities for the representatives of all affected parties to participate. OSHA's on-site interviews with representatives of labor is an example of consumer participation in the monitoring pro-

cess. Consistent with the nature of the protection afforded workers under the law, the result of OSHA monitoring is the enforcement of strict compliance with established standards, with demands for immediate remediation, the levying of financial penalties, and the threat of legal action.

Regulations Analysis
Stationary Source Enforcement Division
Environmental Protection Agency

Program and Purpose of Monitoring

The Clean Air Act, as amended, authorizes the establishment of Federal clean air standards applicable to all public and private major sources of pollutant emissions. Under the law, States are required to implement and enforce the Federal standards. The Environment Protection Agency (EPA) is responsible for assuring that States maintain and comply with these standards. States, in turn, are responsible for enforcing clean air standards in the estimated 22,000 major sources of pollutants nationwide. A major source is any facility which has the potential to emit more than 100 tons of pollutants each year.

Monitoring Procedures

The responsibility for monitoring compliance with Federal clean air standards is shared by EPA and designated State agencies. On an annual basis, EPA's ten regional offices review each State's regulatory plans and procedures for conducting monitoring activities at local sites within their jurisdictions. States are currently required to visit 10% of the major sources for which they are responsible each year. EPA's monitoring efforts are primarily designed to encourage State agency maintenance of Federal standards and compliance with established inspection procedures. Where necessary, EPA provides technical assistance to State agencies to improve the effectiveness of their monitoring activities. In addition, EPA provides grant assistance to States to help in the development of effective monitoring systems. Approximately 450 EPA inspectors provide technical assistance to State agencies for the purpose of improving

State-specific monitoring and technical analyses. Review criteria used with State agencies are not highly standardized because of the need for EPA to be responsive to a State's particular industrial situation. Because of the high cost of air sample analysis ($1,000 to $10,000 per test), EPA rarely conducts its own local site visits of major souces.

Although States monitor 10% of the major sources within their jurisdiction each year, EPA's goal is for every major source to be monitored annually; however, the cost of such a comprehensive review is currently prohibitjve. Where violations are identified, States, rather than EPA, take the initial enforcement action. If remediation of the offense does not occur within a time period specified by the State, EPA may become involved with the State in a court action against the violator. Court action usually results in the levying of substantial financial penalties, up to $25,000 per day. When negligence on the part of a corporation or agency is established, EPA seeks redress through criminal courts which can levy fines as high as $50,000 per day against violators.

Comments

The clean air program was designed as part of an effort to improve and maintain the quality of the Nation's environment. Assuring the maintenance of clean air standards is considered to require a partnership between the Federal government and the States because of the negative effects that persistent violation would have on large numbers of people and because of the wide variation across States in industrial environments. EPA administers an indirect control over State agencies which conduct the on-site monitoring activities. In support of State responsibilities, EPA establishes standards for acceptable monitoring practice, provides technical assistance, and assits when necessary in the

enforcement process. Consequently, EPA's own monitoring procedures are relatively flexible and informal and limited in their scope. Despite the fact that EPA's own monitoring efforts primarily are supportive of the development of State agency monitoring capabilities, the agency adheres to a policy of strict enforcement of industrial compliance. The results of monitoring reflect this orientation in the immediate compliance is required, fines are assessed, and court action sometimes threatened.

Basic Grants Program
Division of Vocational and Technical Education
Bureau of Occupational and Adult Education
U.S. Office of Education

Program Monitored and Purpose

The Vocational Education Act of 1963 authorizes a program of basic grants to States to provide assistance for developing and expanding vocational education programs for persons who need training for employment. Approximately $413 million was distributed this year to State boards of vocational education on a formula basis to support a broad variety of programming and administrative activities in each State. Except for a limited number of statutory provisions earmarking a portion of Federal funds for specific purposes, States have discretion in deciding how and where the money is spent. Upon USOE approval of a State's five-year and annual program plan, Federal funds are allocated to the State for distribution to local programs. The Bureau of Occupational and Adult Education (BOAE) central office is responsible for approving State plans and for monitoring States' expenditures of Federal funds and their compliane with provisions of the program's authorization.

Monitoring Practices

The BOAE monitoring activities focus almost exclusively on the State agencies which administer the Federal vocational education funds. Authority for the monitoring of local vocational education programs is delegated to the State agency. Each year BOAE conducts site visits in ten States and one territory. During each site visit, BOAE staff review materials prepared by the State agency as well as documentation related to the implementation of State plans and compliance with Vocational Education Act and civil rights requirements. BOAE staff

use a checklist of 230 criteria in conducting their site visit. Prior to the on-site review, BOAE staff visit the State to orient agency personnel to the BOAE monitoring requirements and procedures so that adequate preparation can be made. On each site visit, the director of vocational education in the next State to be monitored accompanies BOAE staff so that he or she becomes familiar with the monitoring process. Due to limited funding, BOAE makes only occassional site visits to local programs to verify the effectiveness of State agency administrative practices. In its report back to the State agency, BOAE cites problem areas in need of attention or modification, establishes timelines for remediation, and offers technical assistance when appropriate.

According to program staff, State agency personnel report that the amount of preparation required for the on-site review is burdensome. However, given that BOAE on-site monitoring of State agencies occurs only once every five years, BOAE does not consider its requirements unreasonable.

Comments

Federal support for the development of opportunities for vocational education training requires a Federal/State partnership which relies heavily on the legacy of State authority for the education of its citizens. Monitoring of the basic grants program reflects this partnership in that the State agency, as the discretionary authority and funding intermediary, is responsible for overseeing local program implementation and, in turn, is itself monitored by the BOAE. Although on-site reviews of State agencies are conducted only every fifth year, they require advance preparation by both BOAE and the State agency, a full week of on-site activities and the review of extensive documentation prepared by the State. The use of an advance person to inform the State agency of the on-site

requirements and procedures seems helpful to BOAE in its planning for the site visit review. The result of monitoring is the provision of technical assistance and the required remediation of vocational education opportunities.

Food Stamp Program
Food and Nutrition Service
U.S. Department of Agriculture

Program and Purpose of Monitoring

The Food Stamp Act of 1964 (PL 88-525) authorizes a $6 billion program designed to supplement the food purchasing ability of low-income households. Federal funds are distributed by the U.S. Department of Agriculture to State agencies which are responsible for administering direct payments, in the form of food stamps, through local public assistance agencies to individuals certified as eligible participants. Primary responsibility for monitoring the program is assigned to each designated State agency. Federal monitoring activities focus on the State's procedures for the administration of food stamp funds but also include occasional reviews of individual food stamp recipients and local food stamp distributors.

Monitoring Procedures

Designated State public assistance agencies apply annually to particpate in the food stamp program. These agencies are required to maintain sound administrative procedures and to review a sample of recipient cases each year to ensure against fraud. Seven regional USDA offices, each employing a staff of 50, review State applications, State monitoring procedures, and a limited number of individual cases as a spot check to verify the effectiveness of State procedures. The USDA monitoring activities are conducted once a year in smaller States and twice a year in larger States. When Federal monitoring activities identify a problem area in a State's program, technical assistance is offered as a first step to effect resolution. Failure to resolve identified problems then results

in formal warnings which incorporate timetables for compliance. USDA maintains the ultimate authority to withdraw program funds for failure to comply, but this action has never been taken.

In recent years there have been reports of extensive fraud in the food stamp program committed by food stamp recipients and local distributors. Contributing to this situation seems to be the high degree of decentralization in the administration of food stamps funds, the number of eligible individual beneficiaries, and the magnitude of funds administered by the program. Efforts to redesign USDA monitoring activities to increase their effectiveness are currently underway.

Comments

The purpose of the Federal food stamp program is to improve the diets of low-income households by supplementing their food purchasing ability. Because the program is designed to provide direct assistance on an individual basis and because its beneficiaries comprise a significantly large population, Federal monitoring activities are decentralized and shared by State agencies. Federal responsibility to assure that food stamp funds are appropriately administered requires that Department of Agriculture monitoring activities focus primarily on State procedures rather than on local public assistance agencies or on individual food stamp recipients. The large amount of money expended on the program and the potential that exists for abuse justifies the annual, and in some cases semi-annual, Federal monitoring activities. Variation in administrative procedures across States requires flexible review procedures which are responsive to the individual States. The program's purpose, to promote

assistance to all eligible beneficiaries, requires that the result of monitoring be technical assistance directed at administrative improvements with more stringent or punitive actions taken only when persistent negligence or fraud is involved.

Revenue Sharing
Department of the Treasury

Program and Purpose of Monitoring

Title I of the State and Local Fiscal Assistance Act of 1972 authorizes an income redistribution program under which Federal tax dollars are returned to selected cities and States as discretionary entitlements. Classification as an income distribution site is determined on the basis of such criteria as local income and population levels. The Federal money can be spent only to support programs already mandated by the State or locality. The Department of the Treasury monitors recipients to ensure that they establish and follow administrative procedures for the expenditure of funds consistent with Federal regulations. Once these are in place, the Federal money may be spent at the recipient's discretion.

Monitoring Procedures

The Department of Treasury's monitoring process is centralized and consists of two major activities: 1) targeted audits of Federal fund recipients and 2) review of evidence that citizen participation has occurred in the development of plans for the use of funds and that the recipient will comply with civil rights laws in the expenditure of funds. Monitoring activities are carried out by examiner specialists employed by the Treasury.

1. Audits: The Treasury requests all recipients of revenue sharing funds to submit annual reports which include all expenditure forms and invoices and describe the uses made of the money. These reports are reviewed by the Treasury as well as by the Department of the Census.

The Treasury examines reports for evidence of fraud concentrating their efforts primarily on reports submitted by those sites where misuse of funds has occurred in the past. In addition, examiners review the reports of recipients cited in complaints filed with the Treasury. The documentation included in the required reports is of such magnitude that only cursory reviews of most recipient records can be accomplished.

2. Review of Compliance with Public Participation Requirements and Civil Rights Law: Each applicant for revenue sharing funds is required to submit in its application assurances that the public has participated in planning for the expenditure of funds as required by law. Public participation in planning is considered by the agency to be an integral part of monitoring in the revenue sharing program. Although the actual level of participation varies across localities, opportunities for public input must be made available and well publicized by the recipient according to Federally established procedures. An additional assurance must accompany requests for funds which describes the applicant's efforts to ensure compliance with Federal civil rights laws in the expenditure of funds. When the Treasury identifies evidence of non-compliance with Federal regulations, technical assistance is offered to the recipient and a plan for remediation of the violation is required. Although the Treasury can withdraw funds for continued non-compliance, this action is rarely taken.

Comments

The revenue sharing program is designed to give States and cities discretionary control over the expenditure of a portion of their Federal tax dollars. The direct flow of money from the Federal government back to these jurisdictions requires direct Department of Treasury monitoring. As a result of the program's focus on State/city decision-making initiatives, consumers play a significant role in planning. Consequently, the Treasury's monitoring procedures are limited in scope focussing on administrative procedures rather than on project implementation. Required assurances and fiscal reports are standardized and constitute only minimal Federal supervision. The result of monitoring is most often the provision of technical assistance designed to encourage more effective and responsible local or State discretionary control.

Bank Supervision and Regulation
Federal Reserve System

Program and Purpose of Monitoring

The Federal Reserve System regulates 1,000 banking institutions throughout the nation which are holders of U.S. government currency. Within its regulatory authority, the FRS monitors member banks to ensure their compliance with established procedural standards designed to guarantee sound banking practice. The FRS employs a decentralized and direct monitoring process.

Monitoring Procedures

The Federal Reserve System carries out its monitoring responsibilities through twelve district offices. Each office reviews all banks within its jurisdiction annually, and FRS district examiners spend from one week to four months on each bank visit, depending upon the size and nature of the institution. In each bank review, examiners look to see that Federal regulations are adhered to and that banking practices are sound. To do this, the FRS employs an extensive list (several hundred) of highly standardized criteria which apply to all of an institution's banking practices (consumer regulations, trust department procedures, and data processing, for example).

The FRS enforces strict compliance with Federal regulations. Evidence of non-compliance results in the establishment of a deadline by which time the bank in question must remedy the identified offense (in the case of a criminal offense, the FRS refers the issue immediately to the Department of Justice for litigation). Deadlines for compliance are strictly enforced and, when not met, fines are levied by the FRS against the offending bank. In rare cases where deadlines and fines

have been ineffective in bringing about the required change, the FRS has had to initiate court action.

Comments

The potential societal impact of bank forfeitures is considered to be of such magnitude that the most rigorous of procedures are used to minimize the likelihood of this occurrence. Thus, each member bank of the Federal Reserve System (FRS) is monitored annually. The intensity or depth of monitoring as well as the breadth of the practices reviewed necessitates long on-site visits which require a large commitment of FRS personnel to the monitoring process. The importance of the FRS to the functioning and maintenance of our government and society is the justification for the time and labor expended in this intense monitoring process. The comprehensiveness and intensity of review must be standardized to assure reliability of reviews across sites and examiners. At the same time, flexibility is required to accomodate variations in the size and the objectives of particular banks. Consequently, procedures are standardized but some content and procedural latitude is provided to the examiners for use as a situation demands. The result of the FRS monitoring is enforcement of a strict compliance to standards, with demands for rapid change which are backed by a threat of cease and desist orders or legal action if required.

Public Works - Policy and Program Planning
Economic Development Administration
Department of Commerce

Program and Purpose of Monitoring

The Public Works and Economic Department Act of 1965 (PL 89-136) authorizes a grant and loan program to assist in the construction of public facilities needed to initiate and encourage long-term economic growth in geographic areas which are suffering from sub-standard and persistent unemployment. Such facilities might include access roads to industrial parks or sewage systems. The program is administered by the Economic Development Administration of the Department of Commerce through its regional offices. Eligible applicants for grants or loans include States, local subdivisions, and public or private non-profit organizations which represent a redevelopment or designated EDA economic development area. EDA's primary monitoring responsibility is to assure that applicant proposals for grants or loans are carried out as planned and approved.

Monitoring Procedures

Although the central EDA office offers some guidance, the primary responsibility for monitoring lies with the six regional offices. These offices employ approximately four hundred staff who are directly responsible for the administrative functions related to the individual agency or organization grant or loan recipients and the monitoring of these recipients. Because of the unique nature of individual projects, EDA monitoring procedures are generally flexible in response to project variations. Within this context, however, status and quarterly reporting requirements and reimbursement forms are standardized and EDA audits of expenditures are conducted. The primary focus of EDA monitoring

is to assure the appropriate expenditure of funds and consistency between implementation and the contractual or grant agreement. In recent years EDA has moved from a site visit orientation in monitoring to the continuous review of reports, vouchers, and assurances from recipients.

Comments

The EDA grant and loan program is designed to help alleviate economic problems facing geographic areas. The responsiveness of the agency in providing financial assistance for locally identified efforts designed to impact on area-specific problems is also evidenced in the flexible and on-going, informal nature of EDA's monitoring procedures. Because EDA is primarily interested in ensuring that funds are expended appropriately, monitoring consists primarily of record reviews rather than of extensive on-site visits. The result of monitoring is most often EDA technical assistance and closer supervision, rather than harsher fiscal sanctions, reflecting the developmental orientation of the program.

Age Discrimination
Employment Standards Administration
Department of Labor

Program and Purpose of Monitoring

The Age Discrimination in Employment Act of 1967 (PL 90-202) authorizes the Employment Standards Administration (ESA) to administer a program initiative designed to prohibit arbitrary age discrimination in hiring and to promote the employment of older workers based on ability rather than age. ESA provides counseling and advisory services to employers and individuals and, through a decentralized monitoring system, is responsible for conducting investigations, primarily in response to complaints.

Monitoring Procedures

Although ESA engages in a limited amount of directed monitoring, such as reviews of employer advertisements, the agency's monitoring of the Federal age discrimination law primarily consists of responses to complaints filed by individuals. Within the overall responsibility for the enforcement of numerous Federal employment standards, ESA's 90 area offices and 300 field offices investigate 5000 age discrimination complaints annually. In response to a complaint, ESA staff conduct an interview with the complainant to determine if the issue is suitable for conciliation. Next, the investigator conducts an on-site review of employer practices by examining records and conducting employer and employee interviews. Where a violation is identified, ESA negotiates a timetable for compliance. Although compliance with ADEA standards is most usually reached through this process, ESA has on occassion been forced to take court action. Given that litigation is costly in terms of both time and fiscal resources, the

agency prefers to rely on the complaint resolution process.

According to agency staff interviewed, strict enforcement of ADEA standards during the period immediately following implementation resulted in rapid progress towards the goal of equal protection for older workers, particularly in corporations which employ large numbers of workers. Because of this progress, program administrators have turned their attention towards encouraging broader social change through activities such as their employer counseling and advisory services. In part this shift in emphasis results from the high cost associated with strictly enforcing compliance and the desire to make the most effective use of the limited funds available.

Comments

The protection of workers from discrimination on the basis of age requrires the same aggressive and direct Federal monitoring found in other programs which are charged with the enforcement of protection standards. Because the standards which prohibit age discrimination apply to all of the nation's employers, public and private alike, the ESA relies on a well-staffed, standardized complaint resolution system for the identification and remediation of violations. Within this system, ESA conducts intense, in-depth reviews of employer practices in order to ascertain the nature and scope of violations. However, unlike other programs, which are responsible for monitoring the enforcement of individual protections, ESA prefers to exercise its authority through a technical assistance/negotiation process rather than to rely on fiscal sanctions or the courts to force compliance. This preference is consistent with two realities. First, attitudinal acceptance of the rights and abilities of older workers requires time and encouragement as well as the establishment of well-defined standards.

And second, the penalty and litigative processes require the commitment of significant agency resources which are more effectively used to pursue systemic compliance.

CONCLUSION

This section is organized to accomplish three objectives. The first objective is to provide a brief overview of the BEH waiver monitoring process. The second objective is to relate the BEH waiver review monitoring process to the three dimensions of the conceptual model for describing Federal monitoring practices. To review, the three dimensions of the model are (1) the subject of monitoring, (2) the orientation of the monitoring function, and (3) the locus of responsibility for monitoring. Finally, the third objective of this section is to draw implications for BEH from the monitoring experiences of those Federal programs reviewed which have similar features for each dimension of the model. This final section will recommend specific practices for BEH to consider in developing its waiver review process.

BEH Waiver Review Monitoring Process

In evaluating a waiver request from an SEA, BEH must determine whether a free appropriate public education (FAPE) is available to all handicapped children within the State. Determining the availability of FAPE requires the examination of administrative, instructional, and procedural policies and practices employed by the SEA, local education agencies (LEA), and other State agencies which provide education and related services to handicapped children. This determination is considered to be an evaluative task which is accomplished by utilizing thorough and intense monitoring procedures. The regulations to PL 94-142 (Section 121.a589) specify certain requirements and procedures to be included in this waiver review monitoring process. Data are required related to st[illegible], personnel and expenditures in special and regular education. In

addition, the regulations require evaluative comments from representatives of the consumer and professional communities related to the adequacy and comprehensiveness of the procedural safeguards, due process, and monitoring systems, and the availability of services at no charge to parents.

BEH has conducted its first waiver review in Massachusetts. To conduct this review, the Bureau implemented the three monitoring procedures described in the PL 94-142 regulations which included obtaining an SEA qualitative special state study, obtaining quantitative reports from the SEA and conducting an on-site program review. The Bureau determined that it would required more comprehensive information and additional procedures to determine the availability of FAPE, given the numerous types of institutions which provide educational services to handicapped children and the number of individuals who are involved in planning and delivering these services. In addition, it was apparent that obtaining such information and establishing its veracity would require input from multiple sources. BEH, therefore, interpreted the regulations to permit them to include the following activities in the waiver review monitoring process: collection of data to determine the LEA sites to be visited; in-depth reviews of local programs to examine procedural and programmatic implementation and performance; and public participation activities which included public meetings and interviews with consumer, advocates, and professional organizations.

Relationship of the Waiver Review Monitoring Process to the Conceptual Model

Given the above discussion of the waiver review monitoring process, this section defines the waiver review process in terms of the subject of monitoring, the orientation of the monitoring function, and the locus of responsibility for monitoring.

Subject of Monitoring. As required by law and regulation, the primary subject of monitoring in the waiver process is the extent to which the administration and implementation of programs (SEA/LEAs/other) are consistent with Federal standards in providing free appropriate public education to all handicapped children. The standards are defined by provisions in the statute related to such concepts as procedural safeguards, due process, least restrictive environment, and individual education programming. This primary subject of monitoring, however, cannot be separated from the unique influence of the law's attitudinal orientation to the protection of individual children. The Bureau's attitude towards PL 94-142 as a civil rights law gains added strength in light of the provisions and sanctions of section 504 of the Rehabilitation Act of 1973 which guarantees the rights of handicapped individuals. Thus, the subject of BEH monitoring is characterized by a concern with adherence to standards as well as with the assurance of the implementation of protections and guarantees of individual rights. Therefore, the subject of monitoring is considered to have a dual focus.

Orientation of the Monitoring Function. BEH's Program Administrative Reviews (PAR) which are conducted on a biannual basis in each State can be characterized as having a developmental orientation to the monitoring function much like that of the Federal education programs reviewed earlier in this report. That is, review procedures are oriented towards promoting implementation of practices and procedures consistent with Federal standards. In contrast to this developmental or evolutionary orientation, the BEH waiver review requires a summative judgement based on the current status of the availability of free appropriate public education to all handicapped children. This status quo orientation is not consistent with the result of PAR monitoring which is typically the

provision of technical assistance to promote needed changes. Rather, the status quo orientation to the monitoring function requires immediate and universal compliance with both standards and rights wherein technical assistance has no function. Given the summative nature and the perceived significance of the decision to grant a waiver, the status quo orientation is predictive of a direct locus of responsibility for monitoring.

Locus of Responsibility for Monitoring. The PAR has a developmental orientation to the monitoirng function consistent with the magnitude of the procedural and programmatic change required of the institutions by PL 94-142. The developmental orientation requires that the SEA, as an intermediary institution, be assigned responsibility for local program monitoring and that BEH provide technical assistance as necessary to promote the required changes. Evaluation of a waiver request, as discussed above, requires that BEH be able to verify an SEA claim that the law's provisions related to FAPE are implemented throughout the State and specifically at the local program level. Because it would be inappropriate for the SEA to evaluate its own waiver request, the Bureau needs an alternative monitoring procedure for obtaining indicators of the availability of FAPE throughout the State. Given the significance of the decision to grant a waiver and the irrelevance of technical assistance to that decision, review for a waiver requires BEH to take direct responsibility for monitoring.

Implications for the BEH Waiver Review Monitoring Process

In the previous section of this report, the monitoring practices of twelve Federal programs were analyzed. To draw implications from these analyses, many

contextual variables need to be considered. The implications for the BEH waiver review process that are discussed below are based on knowledge about the waiver review process; the subject, orientation, and locus of responsibility of the waiver monitoring process; the nature and magnitude of the special education and related service delivery systems; and the availability of BEH personnel and fiscal resources for evaluating a waiver request. Within this context, the monitoring practices of other Federal programs are examined for their relevance to future BEH waiver reviews. Recommendations are based not only on the practices of other Federal agencies described in this report but also on the experience of BEH in conducting the Massachusetts waiver review (see Lewis 1978a, 1978b). The monitoring practices considered to be most relevant to BEH and discussed below include: (1) the consumer role in the monitoring process; (2) the thoroughness and intensity of monitoring, and (3) personnel utilization.

Consumer Participation. The focus of the waiver review on the availability of FAPE to all handicapped children within a State has been interpreted by BEH to require a summative performance criterion. Consumers -- as the beneficiaries of the services provided by State, local and private agencies for the handicapped -- become a critical information source. Their participation provides leads for directing monitoring activities as well as confirms information obtained from other sources.

Examination of other Federal programs' use of consumer participation in monitoring reveals several different models. In one model of consumer participation used by several programs, the consumer has primary responsibility for initiating the review process. The model relies on the consumer to direct an agency's attention to performance discrepancies. This model appears to be used

where the number of institutions or individuals to be monitored or protected is so large that the agency must adopt a reactive rather than proactive posture. Examples of the use of this model can be found in the monitoring practices of the Office for Civil Rights and the Employment Standards Administration.

In a second model of consumer participation, one program utilizes public hearings as a basis for obtaining information, for directing the monitoring and/or for confirming information obtained elsewhere, all of which are or can be considered expressions of proactive interests. This model is illustrated in the Revenue Sharing Program, Department of Treasury.

A third model of consumer involvement utilizes an interview strategy which, depending on the specific program, may result in a reactive response to a complaint or a proactive response which provides information or confirmation. Examples of this model can be found in the monitoring practices of the Department of Labor's Occupational Safety and Health Administration and Employment Standards Administration.

Thus, given the critical need for consumer input into the waiver review process, and the various experiences Federal programs have had with consumer participation models, the following suggestions are made to BEH:

- Both proactive and reactive consumer participation strategies for obtaining and confirming information should be implemented as part of the waiver review process.
- Public meetings which encourage comments from individuals who would typically not be heard from in a review of programs or governmental agencies should be arranged as part of the waiver review process.
- Interviews with individual parents as well as with consumer

and advocacy organizations to permit the presentation both of complaints and general reactions need to be included in the waiver review process.

Implications for scheduling, notifying, structuring, and conducting consumer participation activities have been discussed in previous documents (Lewis, 1978a, 1978b).

Thoroughness and Intensity of Monitoring. The perceived significance of granting a waiver and the summative nature of the decision necessitate a thorough and intense review of the availability of FAPE for all handicapped children in a State. Clear and convincing evidence requires information from the SEA, other state agencies and programs, and LEA's as well as from consumers and advocates concerning administrative, procedural, and programming practices. In order to adequately evaluate a State's request for a waiver, both the submission of written documentation by the SEA and on-site visitation are required. The on-site visit is necessary so that BEH can confirm or verify information submitted by the SEA. The verification activity provides the accountability that is necessary to make the ultimate decision to grant or reject the waiver request. Thus, the waiver review is a comprehensive and time-consuming evaluative task.

The Federal programs reviewed in the present report provide three procedural strategies designed to ensure the comprehensiveness of the monitoring process. In the first strategy, programs require that the intermediary State agency conduct a self-study prior to the Federal site visit. Well in advance of the site visit, the Federal program informs the agency of the specific information that is to be included in the study and provides guidelines for its preparation. This model relies upon the intermediary agency's unique knowledge about the administration and implementation of the Federal program throughout the State.

This monitoring procedure enables a Federal program to ca[illegible] in an organized format, a volume of information that would otherwise be difficult and time-consuming to obtain and synthesize. This model is used where an intermediary agency has the primary responsibility for overseeing the implementation of Federal standards and the expenditure of money by numerous local programs. The Vocational Education Basic Grants Program employs this strategy by requiring that a State board of vocational education collect and report specified data prior to the monitoring site visit.

In a second strategy employed by one Federal program reviewed, thorough monitoring is accomplished by the use of an audit trail. This strategy requires the monitor to track an individual agency process from the establishment of its governing policy or procedure, through each step of its implementation, and finally to an assessment of its effectiveness. This strategy enables the monitor to determine the extent to which any given Federal requirement has been met. Typically, this strategy would be used within a status quo orientation to monitoring where strict compliance with Federal standards must adhered to and maintained. The comprehensive nature of the audit trail procedure requires a significant commitment of Federal program staff and time. Of those programs reviewed, the Federal Reserve System's monitoring procedures exemplify the audit trail strategy.

A third strategy for conducting a comprehensive monitoring review is to examine a cross-sectional representation of administrative and program practices within a State. In this strategy a broad view is gained of a representative sample of programs. The purpose of this strategy is primarily to ensure that appropriate policies and procedures exist and secondly, to confirm that the policies and procedures are carried out. This strategy is less intense than the

audit trail strategy which follows the policy and procedures of individual agencies through all steps of implementation. The U.S. Office of Education utilizes this strategy in its Title I program when it conducts on-site reviews of required SEA policy and administrative procedures and of several local programs to determine that educationally disadvantaged children are receiving services as mandated by law.

Given that the evaluation of an SEA waiver request requires a thorough and intensive review of a State's special education delivery system and its performance related to individual children, and given the various strategies used by other Federal programs, the following suggestions are made to BEH:

- Information to evaluate a waiver request should be obtained from State data reported in SEA self-studies and from SEA, LEA, and other program site visits conducted by BEH.
- BEH should specify the data to be included in the SEA self-study well in advance of the site visit to permit adequate time for SEA preparation and BEH review prior to the site visit.
- On-site reviews in the SEA and in local programs as well as in other State agencies should be conducted in order to examine implementation practices related to the delivery of services to children.
- BEH should allow sufficient time in which to conduct its site visit activities, including time for comprehensive visits to the SEA, LEAs, and other agencies and for public participation activities; eight to ten working days is suggested for these activities.

- To assure the protection of the educational rights of the individual child, the development and implementation of specific IEPs should be verified through interviews with the child's teacher and other persons responsible for planning and providing education and related services.
- BEH, as recommended by Lewis (1978b), should use a regional rather than a cross-sectional sampling procedure to select its program sites. This regional approach would permit an audit trail to be traced for any LEA, in which BEH could examine not only the effectiveness of the services provided to handicapped children by the LEA, but also the effectiveness of the services provided by the many human services agencies that work in conjunction with the LEA to provide a free appropriate education to all handicapped children in the local area.

Personnel Utilization. The comprehensiveness of data that is required to evaluate a waiver request and the procedures required to obtain this information have implications for the utilization of BEH staff available and the need for BEH to participate in front-end planning with the SEA for the waiver review, to review data submitted by the SEA, to conduct on-site activities, and finally, to report review findings, the waiver review process requires the commitment of several people in various roles.

The Federal programs reviewed in this report offer three models of personnel unilization that are relevant to the implementation of the waiver review monitoring process. In the first model, responsibility for the planning, organization,

and administration of a review process is assigned to a single person. This single-person monitoring strategy is used in situations where the program being reviewed is extremely complex. The complexity of the program requires the individual conducting the monitoring to have a thorough understanding of all facets of a program which, because of their interrelatedness, can only be evaluated in the context of the entire program. Thus, the monitoring requires an individual to grasp the total program rather than any single or multiple elements. Further, the single-person model provides an effective public relations strategy when the monitoring process is expected to extend over a long period of time. In this case, the single person provides a continuous coordinative function between the Federal agency and the program being reviewed.

A second model of personnel utilization in the monitoring process is the use of an advance person who is responsible for visiting the agency to be reviewed in order to prepare staff there for the pre-visit and on-site visit requirements. This strategy utilizes an advance person to orient the agency to the requirements of the review and in turn to obtain information that may be useful to Federal program staff in planning the on-site review activities. The monitoring activities of the Vocational Education Basic Grants Program utilize this strategy primarily because the comprehensiveness of the on-site review requires a significant amount of agency preparation. This personnel utilization strategy maximizes the probability of program readiness for review and increases the quality of information obtained.

The third model of personnel utilization employed by most of the Federal programs reviewed, is a team approach to the monitoring process. Whereas, the single-person review model is used when only a limited number of programs is

involved, the team strategy is used when many programs need to be visited. In addition, the team approach is used when the review is comprehensive but not necessarily unduly complex or intense. Further, the team approach is often selected when differentiated monitoring staff skills are required. Because the BEH waiver review process requires examining of public records and files; interviewing administrators, parents, and organizations; conducting public hearings; and tracking the implementation of individualized educational programs, the need for muliple staff members is evident.

Thus, in light of the extensive personnel requirements associated with evaluating an SEA waiver request and considering the personnel utilization models used by other Federal programs, the following strategies are suggested for BEH to consider:

- Overall responsibility for managing a BEH waiver review process should be assigned to one individual and this assignment articulated to the SEA.
- A team approach should be taken by BEH in the assignment of staff to some waiver review activities, such as local program reviews, and this assignement made consistent with the particular skills or knowledge of the persons involved.
- BEH staff who will participate in the on-site program reviews should be designated as early as possible so that they have sufficient time to plan and prepare for the visit.
- Use should be made of an advance person to visit the SEA to familiarize staff there with the subsequent visit requirements and procedures and to obtain information for use by BEH in its site visit planning.

In summary, the BEH waiver review monitoring procedures are considered to be concerned with the extent to which current procedures and practices within a given State adhere to Federal standards. In addition, the waiver review is concerned that all accountability procedures for protecting and guaranteeing the rights of handicapped children and their families are implemented. Monitoring for a waiver requires a change from the developmental, technical assistance orientation characterizing the Bureau's Program Administrative Reviews to a status quo or strict summative judgement orientation. Further, the change from a developmental to a status quo orientation to the monitoring function requires a shift from reliance on an indirect to reliance on a direct locus of responsibility for monitoring. Thus, the recommendations made in this report emanate from the proposition that BEH will directly conduct the monitoring of the administrative, procedural, and programming implementation practices required by PL 94-142. This contrasts with the Bureau's ongoing reliance on SEAs to monitor the implementation of PL 94-142 on a formative basis at the local level. Finally, the recommendations and suggestions for the waiver review monitoring process are based on the change in orientation BEH will have to make from technical assistance to strict compliance when evaluating a waiver request. These shifts in both the orientation of the monitoring and the locus of responsibility for conducting the monitoring process necessitate the recommended modifications to current PAR procedures. It is significant to note that BEH's current PAR procedures appear to be as thorough, intense and frequent as any of the Federal monitoring practices reviewed in this report. Thus, the recommendations for changes reflect not weaknesses in current monitoring procedures but, rather, needs resulting from new purposes.

INTERVIEW SCHEDULE

1. Program Pupose: What is the nature of the program you are responsible for monitoring? (education for the handicapped, environmental standards, housing practices, etc.)

2. Monitoring Target: What units (local or State agencies, private industry, etc.) do you monitor? Is a sample or the universe of units monitored? If sample, how often, how many, how is sample selected? Is sample selected for generalizability or for representativeness?

3. Purpose of Monitoring: What is the purpose of your monitoring? For compliance? For enforcement? Is monitoring designed to discover specific problems (areas of non-compliance) or to enable you to generalize the whole system?

4. Result of Monitoring: What does the monitoring review result in? Technical assistance, Sanctions? If so, what are they? Are they ever applied? How often?

5. Standardization: Are monitoring procedures standardized (procedural responsiveness to variation in individual programs)? How structured are the procedures? What is standardized (forms, procedures, reports, etc.)?

6. Labor Requirements: Is the monitoring procedure labor intensive for Federal agency? For unit being monitored? How frequently is process conducted? How many agency staff are required? Do staff have other agency responsibilities? How much of their time is required for activities related to monitoring?

7. Time: How long does it take to conduct a monitoring review of a program? How often is a monitoring review conducted?

8. Scope and Depth of Monitoring: What is the scope of what is being monitored? (For example, BEH monitors on 31 variables related to PL 94-142.) If you are monitoring performance related to Federal standards, how far into the system do you have to go to check performance (for example, BEH examines State policies but also reads education plans and then may meet with teachers to discuss services children are actually getting)?

9. Alternatives: What alternatives to present monitoring system has agency tried or considered?

10. Attitude: What is the attitude of people in the units being monitored toward the process used? Is there satisfaction in terms of fairness of the review process, in decision-making, in reporting of findings, in follow-up or technical assistance provided?

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